

**This Opinion is Not a
Precedent of the TTAB**

Mailed: September 13, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board
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In re Deirdre C. Glascoe
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Serial No. 88374879
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Deirdre C. Glascoe, *pro se*,

Jules Dean, Trademark Examining Attorney, Law Office 120,
David Miller, Managing Attorney.

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Before Taylor, Bergsman, and Lynch,
Administrative Trademark Judges.

Opinion by Lynch, Administrative Trademark Judge:

I. Background, Evidentiary Issues and Preliminary Matters

Deirdre C. Glascoe (“Applicant”) seeks to register on the Principal Register the proposed mark SCIENTIFIC STUDY OF GOD in standard characters for “Scientific research” in International Class 42.¹

The Examining Attorney finally refused registration on the ground that the proposed mark is merely descriptive of the services under Section 2(e)(1) of the

¹ Application Serial No. 88374879 was filed April 7, 2019, based on alleged use of the mark in commerce under Section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a).

Trademark Act, 15 U.S.C. § 1052(e)(1). Applicant requested reconsideration and appealed. The Examining Attorney denied reconsideration, and the appeal proceeded. Applicant then filed on the same day both a request for remand to submit additional evidence² and her appeal brief.³ The Board granted the request and remanded the case to the Examining Attorney for consideration of the new evidence.⁴ The Examining Attorney maintained the refusal, and introduced additional supporting evidence.⁵ The appeal again resumed,⁶ and the Examining Attorney filed his brief.⁷ Applicant filed a Reply Brief.⁸

The Examining Attorney objects to evidence attached to Applicant's Brief. While evidence should not be attached to a brief, 37 C.F.R. § 2.142(g) (the record in an application must be complete prior to appeal); *In re Hollywood Lawyers Online*, 110 USPQ2d 1852, 1856-57 (TTAB 2014) (refusing to consider new evidence attached to the brief), this evidence was included in Applicant's request for remand to submit additional evidence. The request was granted by the Board, allowing the inclusion of the evidence in the record. 15 TTABVUE. Therefore, because the evidence is properly within the application file record, we overrule the objection.

² 12 TTABVUE.

³ 13 TTABVUE.

⁴ 15 TTABVUE.

⁵ 16-25 TTABVUE.

⁶ 26 TTABVUE. The Board offered Applicant the opportunity to file a supplemental brief, following the remand, but she did not do so.

⁷ 28 TTABVUE.

⁸ 30 TTABVUE.

The Examining Attorney also objects to a request by Applicant that the Board take judicial notice as follows:

Applicant requests the Board to take judicial notice of **USPTO TMNG | IDML Public Record;**

The following are included under class 042

Data Decryption Services	042 – Computer and Scientific
Data Mining	042-Computer and Scientific: This is a search and analysis service. It involves looking for data on user defined topics and analyzing that data as requested by the user.
Data encryption and decoding services	042 - Computer and scientific
Design and development of computer-modeled versions of human beings using computer animation for use in movies, television, internet, games and other applications	
Computer Modeling Services	042 - Computer and scientific - Computer modeling services involve the use of a computer to develop a mathematical model of a complex system or process and provide conditions for testing the model.
Data Conversion	042 - Computer and scientific Data conversion of computer program data or information, other than physical conversion

Data Warehousing	Data warehousing is not a storage service. It is used to refer to the programming for a large database that is designed for the fast processing of the data in it. As such, it is a programming service in 42.
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While the Examining Attorney characterizes this material as “what appears to be third party registrations,”¹⁰ it instead appears to be a list of entries from the USPTO’s

⁹ 13 TTABVUE 3-4 (Applicant’s Brief).

¹⁰ 28 TTABVUE 5 (Examining Attorney’s Brief).

ID Manual, including the USPTO's explanatory notes on particular entries. "TMNG IDML" refers to the USPTO's Trademark ID Manual. We deem judicial notice of the ID Manual unnecessary as the Board is free to review such formalized official statements and codifications of USPTO policy, and therefore consider this reference material for whatever probative value it may have.

Applicant objects in her Brief to "evidence examiner submitted for [the] first time in his final office action, as applicant was not given a fair opportunity to rebut."¹¹ As noted above, because Applicant timely requested reconsideration of the final Office action and the Board subsequently granted Applicant's request for a remand for consideration of additional evidence from Applicant, thereby giving Applicant the chance to supplement the record and rebut the Examining Attorney's evidence, we consider this objection moot.

Applicant lodges several other complaints that we find to be unfounded:

- that the ground for refusal of the application changed from descriptive to deceptively misdescriptive, which it did not;
- that the Examining Attorney "failed to inform Applicant of the proper way to make a record,"¹² which was not the Examining Attorney's responsibility, and which is not accurate regardless, given that the June 21, 2019 Office Action recommended that Applicant consider engaging an attorney to represent her

¹¹ 13 TTABVUE 2 (Applicant's Brief).

¹² 13 TTABVUE 3 (Applicant's Brief).

and advised of USPTO online resources with information on how to respond to Office Actions and include evidence;¹³ and

- that the Examining Attorney is biased, as we see no evidence of it in the handling of this application, which appears to have been in accordance with USPTO policy and procedures.

II. Descriptiveness

The refusal rests on Section 2(e)(1) of the Trademark Act, which precludes registration of “a mark which, (1) when used on or in connection with the [services] of the applicant is merely descriptive . . . of them.” 15 U.S.C. § 1052(e)(1); *see also* 15 U.S.C. § 1053 (service marks subject to the same registrability provisions as trademarks). A term is merely descriptive within the meaning of the statute “if it immediately conveys knowledge of a quality, feature, function, or characteristic of the goods or services with which it is used.” *In re Chamber of Commerce of the U.S.*, 675 F.3d 1297, 102 USPQ2d 1217, 1219 (Fed. Cir. 2017) (quoting *In re Bayer AG*, 488 F.3d 960, 82 USPQ2d 1828, 1831 (Fed. Cir. 2007)); *see also In re TriVita, Inc.*, 783 F.3d 872, 114 USPQ2d 1574, 1575 (Fed. Cir. 2015).

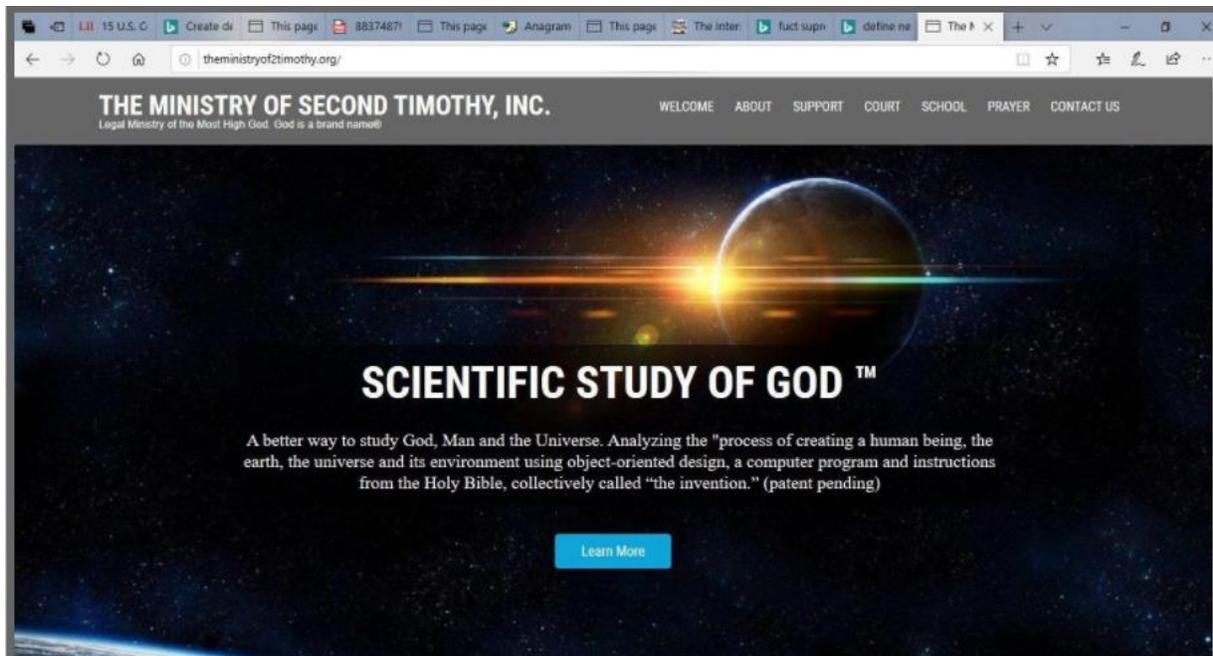
Descriptiveness must be assessed “in relation to the [services] for which registration is sought, the context in which it is being used, and the possible significance that the term would have to the average purchaser of the [services] because of the manner of its use or intended use.” *Bayer AG*, 82 USPQ2d at 1831 (citing *In re Abcor Dev.*, 588 F.2d 811, 200 USPQ 215, 218 (CCPA 1978)). The

¹³ TSDR June 21, 2019 Office Action at 1.

descriptiveness analysis concentrates on the services identified in the application. *See In re Cordua Rests., Inc.*, 823 F.3d 594, 118 USPQ2d 1632, 1636 (Fed. Cir. 2016) (quoting *Octocom Sys., Inc. v. Houston Comput. Servs., Inc.*, 918 F.2d 937, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990)).

Evidence that a term is merely descriptive to the relevant purchasing public “may be obtained from any competent source, such as dictionaries, newspapers, or surveys,” *Bayer AG*, 82 USPQ2d at 1831; *see also Princeton Vanguard, LLC v. Frito-Lay North Am., Inc.*, 786 F.3d 960, 114 USPQ2d 1827, 1833 (Fed. Cir. 2015), as well as “advertising material directed to the [services].” *In re Abcor Dev. Corp.*, 588 F.2d 811, 200 USPQ 215, 218 (CCPA 1978). It may also be obtained from websites and publications, and an applicant’s own specimen of use and any explanatory text included therein. *In re N.C. Lottery*, 866 F.3d 1363, 123 USPQ2d 1707, 1710 (Fed. Cir. 2017).

The application contains the following substitute specimen, which Applicant described as “[a] screen shot of our web page describing the type of scientific research services offered”:



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According to the Examining Attorney, “the mark merely describes a service that uses systematic scientific methods to examine and analyze the creator and ruler of the universe.”¹⁵ The Examining Attorney first points to the definition of “scientific” in the record,¹⁶ and emphasizes that Applicant’s own identification of services is for “**scientific** research.” The Examining Attorney also submitted online dictionary definitions from Merriam-Webster of “study” as “application of the mental faculties to the acquisition of knowledge” and “a careful examination or analysis of a phenomenon, development, or question,”¹⁷ and of “God” as “the supreme or ultimate reality: such as the Being perfect in power, wisdom, and goodness who is worshipped

¹⁴ TSDR December 8, 2019 Response to Office Action at 1, 24.

¹⁵ 28 TTABVue 6 (Examining Attorney’s Brief).

¹⁶ TSDR June 21, 2019 Office Action at 2.

¹⁷ TSDR June 21, 2019 Office Action at 9.

as creator and ruler of the universe.”¹⁸ Considering the mark as a whole, the Examining Attorney posits that the combination, SCIENTIFIC STUDY OF GOD, does not create a unitary whole that is incongruous or otherwise nondescriptive.

As further support for the descriptiveness refusal, the Examining Attorney offered evidence of the nature of Applicant’s use of some or all of the terms in the mark or the identification of services. The Examining Attorney submitted screenshots of Applicant’s website, godisabrandname.org, which states in relevant part, “God is the Creator of the Universe. Religious Proposition? No, It’s a Scientific One.”¹⁹ Another passage indicates, “Our research involves studying God through the lens of object-oriented design....”²⁰ The website further states:

The Scientific Study of God TM is a biblically sound science curriculum (BSSC) TM designed for students in grades 7 to 12. The goal of the curriculum is to teach students the truth about God and His creation, including the origin and destination of life, in a manner that complies with common core state standards, benchmarks for science literacy, next generation science standards (NGSS), the Holy Bible, and research, which has been conducted in collaboration with God.²¹

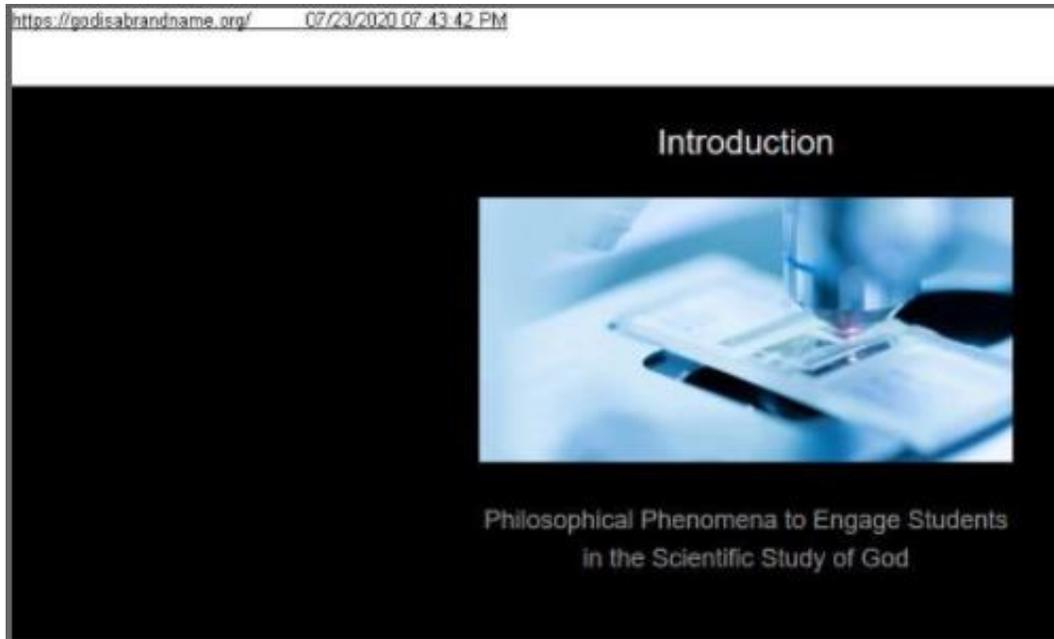
Another excerpt from Applicant’s website shows the following use of the wording in the proposed mark:

¹⁸ TSDR June 21, 2019 Office Action at 18.

¹⁹ TSDR July 24, 2020 Office Action at 3.

²⁰ TSDR July 24, 2020 Office Action at 9.

²¹ TSDR July 24, 2020 Office Action at 4.



And a Google Books entry features a work by Applicant titled “Proof of God Using the Scientific Method: Philosophical Phenomena to Engage Students in the Scientific Study of God.”²²

The Examining Attorney also included in the record a variety of third-party evidence to show consumer exposure to the use of science in studying God. For example, a Google entry shows a book titled “The Physics of God” that in part “describes the intersections of science and religion.”²³ Another website promotes a book called “The Science of God: The Convergence of Scientific and Biblical Wisdom” by a “physicist and biblical scholar,” and “[t]he main thesis of this book is that there is a convergence between modern scientific discoveries and the ancient wisdom of the

²² TSDR July 24, 2020 Office Action at 12.

²³ TSDR July 24, 2020 Office Action at 14.

Old Testament.”²⁴ An article on the Forbes website bears the caption “Can Science Prove The Existence Of God?”²⁵ Another article from the Humanities & Social Sciences Communications page of the Nature.com website discusses the trend of religious scholars “engag[ing] more directly with scientific results,” termed “the ‘science and religion dialogue’ in theology.”²⁶ References listed at the end of that article include titles such as “Religion and science: Historical and contemporary issues,” “Science and religion: Some historical perspectives,” and “Oxford handbook of religion and science.”²⁷

In her Brief, Applicant states that the proposed mark is not merely descriptive because “Applicant’s God is living and breathing and collaborates in the scientific study of objects derived from God – Scientific Study of God.”²⁸ In her Reply Brief, she emphasizes the importance of correctly defining “GOD” for purposes of the analysis, and offers her own definition of God as “a legal person, an extraterrestrial life form who created humans in a lab and who conducts scientific studies of humans and other objects derived from GOD.”²⁹ She also states:

If GOD is defined based on Applicant’s first-hand personal experience with GOD, whom theists can attest is a GOD who intervenes in the universe He created, then GOD is a legal person with intellectual property rights of His own, and the mark SCIENTIFIC STUDY OF GOD is not merely

²⁴ TSDR July 24, 2020 Office Action at 17 (teachfastly.com); *see also* TSDR January 7, 2021 Denial of Reconsideration at 6 (scribd.com entry for the same book).

²⁵ TSDR July 24, 2020 Office Action at 20 (forbes.com).

²⁶ TSDR July 24, 2020 Office Action at 48 (nature.com).

²⁷ TSDR July 24, 2020 Office Action at 70-71 (nature.com).

²⁸ 13 TTABVUE 19.

²⁹ 30 TTABVUE 4.

descriptive, its [sic] GOD's logo. The mark SCIENTIFIC STUDY OF GOD is a permutable string object (stenography, cryptography) that when decoded (anagrammed) reveals real-time and contemporaneous communications from GOD including the exclusive license GOD granted to Applicant to use the results of GOD's scientific study of human behavior in Applicant's products and services.³⁰

Applicant criticizes the dictionary definitions and the descriptiveness refusal because the proposed mark "is not about humans studying GOD, it's about GOD studying human behavior, encoding His study results in His logo – the mark, SCIENTIFIC STUDY OF GOD...."³¹

Considering Applicant's identification of services, specimen of use, and website content, we find that the Merriam-Webster definitions of "scientific,"³² "study,"³³ and "God" set out above establish that the proposed mark describes "scientific research" about God. "In considering a mark as a whole, the Board may weigh the individual components of the mark to determine the overall impression or the descriptiveness of the mark and its various components." *Oppedahl & Larson*, 71 USPQ2d at 1372. We find it "useful to consider the public's understanding of the individual words." *Princeton Vanguard*, 114 USPQ2d at 1832-33. While we understand Applicant's desire to rely on her own definition of GOD rather than the dictionary definition, we must focus on how consumers would understand the words in the mark. *Real Foods*

³⁰ 30 TTABVUE 2-3.

³¹ 30 TTABVUE 5.

³² TSDR June 21, 2019 Office Action at 2 (merriam-webster.com).

³³ TSDR June 21, 2019 Office Action at 9 (merriam-webster.com).

Pty Ltd. v. Frito-Lay N. Am., Inc., 906 F.3d 965, 128 USPQ2d 1370, 1374 (Fed. Cir. 2018) (“When determining whether a mark is merely descriptive, the [TTAB] must consider the commercial impression of a mark as a whole, viewed through the eyes of a consumer”) (cleaned up). A dictionary definition such as the one from Merriam-Webster is a more appropriate source to show the relevant public’s understanding of “God” for this purpose. *See In re Reed Elsevier Props.*, 482 F.3d 1376, 82 USPQ2d 1378, 1380 (Fed. Cir. 2007) (dictionary definitions are a “competent source ... to show the relevant public’s understanding of a contested term”).

Applicant uses SCIENTIFIC to describe her service in the identification, and STUDY is fairly synonymous with “research,” the other term she uses to describe her service in the identification. The broadly identified “scientific research” has no limitation as to subject matter, and therefore encompasses scientific research about any subject, including about God. *See S.W. Mgmt., Inc. v. Ocinomled, Ltd.*, 115 USPQ2d 1007, 1025 (TTAB 2015) (where the goods in an application or registration are broadly described, they are deemed to encompass all the goods of the nature and type described therein); *In re Hughes Furniture Indus., Inc.*, 114 USPQ2d 1134, 1137 (TTAB 2015) (“Applicant’s broadly worded identification of ‘furniture’ necessarily encompasses Registrant’s narrowly identified ‘residential and commercial furniture.’”). SCIENTIFIC STUDY OF GOD retains the descriptive significance of the individual words, and the combination remains merely descriptive. *See, e.g., In re Phoseon Tech., Inc.*, 103 USPQ2d 1822, 1823 (TTAB 2012) (holding SEMICONDUCTOR LIGHT MATRIX merely descriptive of light and UV curing

systems composed primarily of light-emitting diodes for industrial and commercial applications); *In re Petroglyph Games Inc.*, 91 USPQ2d 1332, 1337 (TTAB 2009) (BATTLECAM merely descriptive for computer game software).

As reflected in the materials of record, Applicant's own use of SCIENTIFIC STUDY OF GOD and the component words as well as her own descriptions of the research also show that the proposed mark describes her scientific research service and would not, as Applicant argues, be understood as scientific research undertaken by God. Her specimen refers to the service as a "better way to study God...," while her website discusses "appl[ying] a scientific method to evaluate compliance with God's laws"³⁴ and states that "Our research involves studying God through the lens of object-oriented design...."³⁵ Another webpage of Applicant's refers to "Philosophical Phenomena to Engage Students in the Scientific Study of God," and the Google Books entry for Applicant's book precedes that same wording with "Proof of God Using the Scientific Method."³⁶ Thus, Applicant's own materials show that SCIENTIFIC STUDY OF GOD merely refers to engaging scientific principles for research focused around the being Applicant considers the creator and ruler of the universe. *See Empire Tech. Dev. LLC*, 123 USPQ2d 1544, 1549 (TTAB 2017) ("[T]he way an applicant uses an alleged mark (or a component term in a mark), ... in promotional materials or packaging, is relevant to whether consumers will perceive the mark as

³⁴ TSDR July 24, 2020 Office Action at 8.

³⁵ TSDR July 24, 2020 Office Action at 9.

³⁶ TSDR July 24, 2020 Office Action at 12.

an indicator of source or instead as descriptive or generic.”); *see also In re Reed Elsevier Props.*, 482 F.3d 1376, 82 USPQ2d 1378, 1380 (Fed. Cir. 2007) (appropriate to consider the applicant’s website to provide context for and inform the understanding of the identification); *In re Steelbuilding.com*, 415 F.3d 1293, 75 USPQ2d 1420 (Fed. Cir. 2005) (examining the subject website in order to understand the meaning of terms).

The third-party evidence makes clear that consumers are accustomed to encountering the concept of studying God using scientific principles, described in terminology very similar to and sometimes overlapping with the terminology in Applicant’s proposed mark. Thus, the combination of words in SCIENTIFIC STUDY OF GOD refers to something with which consumers are familiar, and does not create an incongruous or otherwise non-descriptive mark.

Decision: We affirm the refusal to register Applicant’s proposed mark on the Principal Register on grounds of mere descriptiveness.